

UNCLASSIFIED

Department of State

Argentina
INCOMING
TELEGRAM
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INFO AMEMBASSY MONTEVIDEO
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CINCSO FOR INTAFF, CINCLANT FOR POLAD

EO 12356: DECL: 11/2/92

TAGS: SHUM, AR

SUBJ: PEN PRISONERS AND THE DISAPPEARED

1. SUMMARY: IN MEETING WITH MINISTRY OF INTERIOR OFFICIALS, EMBOFF WAS PROVIDED LATEST STATISTICS ON PEN PRISONERS AND, FOR THE FIRST TIME, INFORMATION ON NUMBER OF DISAPPEARANCE CASES THAT HAVE REPORTEDLY BEEN CLARIFIED TO FAMILY MEMBERS. MINISTRY OFFICIALS EXPRESSED IRRITATION AT WHAT THEY DESCRIBED AS CRASS POLITICAL EXPLOITATION OF THE EXISTENCE OF UNMARKED COMMON GRAVES, WHICH ARE A CUSTOMARY BURIAL PRACTICE IN ARGENTINA FOR UNIDENTIFIED BODIES. END SUMMARY.

2. (U) ON OCTOBER 29, ACTING POLITICAL COUNSELOR CALLED ON UNDERSECRETARY OF INTERIOR ARMY BRIGADIER GENERAL CARLOS CERDA AND THE MINISTRY'S DIRECTOR GENERAL FOR INTERNAL SECURITY, COR. (R) CARLOS ALBERTO TEPEDINO TO DISCUSS RECENT HUMAN RIGHTS DEVELOPMENTS. CERDA, WHO IS ALSO THE SENIOR OFFICER IN THE JUDGE ADVOCATES' GENERAL BRANCH OF THE ARMY, AND TEPEDINO WERE FRIENDLY AND OPEN. THEIR COMMENTS ARE SUMMARIZED BELOW:

3. (U) PEN PRISONERS: AS OF OCTOBER 21, 1982, THE SITUATION OF PRISONERS DETAINED UNDER PEN POWERS IS AS FOLLOWS:

A. PURE PEN PRISONERS:

PRISONERS HELD WITHOUT CHARGES	21
PRISONERS HELD AFTER ACQUITTAL	58
PRISONERS HELD AFTER COMPLETING SENTENCE	116
TOTAL	195

B. PEN PRISONERS IN VARIOUS STATES OF DUE PROCESS THROUGH THE CIVIL COURTS:

PRISONERS CHARGED AND ON TRIAL BY COURTS	41
PRISONERS SENTENCED WHO HAVE APPEALED TO NEXT HIGHEST COURT	27
PRISONERS SENTENCED WHO HAVE APPEALED TO SUPREME COURT	2
PRISONERS WITH SENTENCES CONFIRMED BY THE COURTS	111
TOTAL	181

4. TEPEDINO SAID THAT THE GOVERNMENT COMMITTEE ON PEN PRISONERS DECIDED ON THE MORNING OF OCTOBER 29 THAT ANOTHER 96 RELEASES WILL TAKE PLACE SOMETIME DURING THE NEXT TWO WEEKS. IF THESE RELEASES TAKE PLACE IT WILL BRING THE TOTAL NUMBER OF PEN PRISONERS WELL BELOW 300.

5. (U) APART FROM THE PEN PRISONERS DISCUSSED ABOVE, TEPEDINO ESTIMATED THAT ANOTHER 430 "SUBVERSIVES" WERE DETAINED UNDER THE NORMAL CIVIL AND MILITARY PENAL CODES, I.E. NOT PEN POWERS. AND HAVE BEEN TRIED

FOR SPECIFIC CRIMES IN CIVIL AND MILITARY COURTS. THESE ESTIMATED 430 PERSONS WERE SERVING THEIR SENTENCES AS OF OCTOBER 1982.

6. TEPEDINO REMARKED ON A PERSONAL BASIS THAT THE HUMAN RIGHTS ORGANIZATIONS HAVE LOGICAL ARGUMENTS FROM THE LEGAL STANDPOINT, THAT THE 195 PRISONERS IN THE "PURE PEN" CATEGORY ARE "POLITICAL" PRISONERS. HOWEVER, ALL OF THE OTHERS, WHETHER NOW ON TRIAL OR CONVICTED AND SENTENCED BY CIVIL AND MILITARY TRIBUNALS, HAVE BEEN CHARGED WITH OR FOUND GUILTY OF CRIMES UNDER ARGENTINE LAW, SO THE ACCUSATION THAT THEY ARE "POLITICAL" PRISONERS IS UNFOUNDED, ACCORDING TO TEPEDINO. HUMAN RIGHTS ORGANIZATIONS TEND TO LUMP THEM ALL TOGETHER AND THEREBY PRODUCE EXAGGERATED FIGURES, HE SAID.

7. (U) THE UNDERSECRETARY AND TEPEDINO SAID THAT THE MINISTER OF INTERIOR HAS REGISTERED 6,600 REQUESTS FOR THE WHEREABOUTS OF PERSONS MISSING IN THE PERIOD FROM

ARGENTINA PROJECT (S200000044)

U.S. DEPT. OF STATE, A/RPS/IPS

Margaret P. Grafeld, Director

(X) Release () Excise () Deny

Exemption(s):

Declassify: () In Part (X) In Full

() Classify as () Extend as () Downgrade to

Date Declassify on Reason

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Department of State

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1974 TO 1979. THE MINISTRY HAS PROVIDED INFORMATION TO FAMILIES IN 1,426 CASES. MANY OF THESE WERE INDIVIDUALS, ACCORDING TO TEPEDINO, WHO DIED IN ARMED CONFRONTATIONS WITH POLICE OR SECURITY FORCES. THERE WERE AT LEAST 1,600 SUCH FIREFIGHTS DURING THE COURSE OF THE DIRTY WAR, HE SAID.

8. GRAND BOURG

CERDA COMPLAINED THAT HUMAN RIGHTS ACTIVISTS WITH POLITICAL MOTIVES ARE EXPLOITING THE PAIN OF FAMILY MEMBERS AND IGNORANCE OF OUTSIDERS SENSATIONALIZING THE EXISTENCE OF UNMARKED GRAVES IN GRAND BOURG CEMETERY AND OTHER LOCATIONS THROUGH THE COUNTRY. BY LAW AND PRACTICE IN ARGENTINA THE BODIES OF UNIDENTIFIED PERSONS WHOM NO ONE CLAIMS ARE BURIED IN UNMARKED GRAVES. MUNICIPAL LAWS FREQUENTLY PERMIT THE BURIAL OF UP TO FIVE UNIDENTIFIED PERSONS IN THE SAME GRAVE, ACCORDING TO TEPEDINO. THE NORMAL PROCEDURE WHEN THE BODY OF AN UNIDENTIFIED PERSON IS FOUND IS TO KEEP IT IN THE MORGUE FIVE DAYS FOR FAMILY MEMBERS TO COME AND IDENTIFY IT. ACCORDING TO LAW, THE BODY MUST BE REMOVED FROM THE MORGUE WITHIN FIVE DAYS AND BURIED. IF NO ONE HAS CLAIMED THE BODY, FINGERPRINTS ARE TAKEN TO MAKE LATER IDENTIFICATION POSSIBLE. IF IDENTIFICATION PAPERS ARE LATER PRODUCED OR THE INDIVIDUAL'S FINGERPRINTS SHOW UP ON THE COMPUTER, THE NAME IS PLACED BESIDE THAT INDIVIDUAL'S NUMBER IN THE RECORDS KEPT BY MUNICIPAL AUTHORITIES.

9. ACCORDING TO CERDA HUMAN RIGHTS ACTIVISTS ARE WELL AWARE OF THE FOREGOING AND WERE AWARE SOME TIME AGO OF THE INDIVIDUAL WHOSE BODY IS BURIED AT GRAN BOURG (MIGUEL ANGEL SOSA) AND WHOSE EXHUMATION SPARKED THE SCANDAL NOW REVOLVING AROUND 88 OTHER UNMARKED GRAVES IN THAT CEMETERY. CERDA PREDICTED THAT THE HUMAN RIGHTS ACTIVISTS WILL SOON CLAIM THAT THEY HAVE JUST LEARNED OF SEVERAL OTHER INDIVIDUALS, FORMERLY ALLEGED DISAPPEARED, WHO ARE BURIED AT COMMON GRAVESITES AT OTHER LOCATIONS. THESE SO-CALLED DISAPPEARED ARE, HE SAID, NO SUCH THING BECAUSE THEY ARE AMONG THOSE PERSONS ABOUT WHOM THE MINISTRY OF INTERIOR HAS INFORMED THEIR FAMILY MEMBERS OF THEIR BURIAL PLACES. THE HUMAN RIGHTS ORGANIZATIONS, HE COMPLAINED, WAIT UNTIL IT IS MOST USEFUL FOR THEIR POLITICAL OBJECTIVES TO DENOUNCE THE EXISTENCE OF SUCH GRAVES. THE ACTING POL COUNSELOR ASKED WHY THE MINISTRY DID NOT PRE-EMPT THESE ACCUSATIONS BY PUBLICLY EXPLAINING THE SITUATION OF THE 1426 CASES. CERDA REPLIED THAT THE RESPONSIBILITY OF THE MINISTRY IS ONLY TO INFORM THE FAMILIES.

10. INDEPENDENCE OF THE COURTS CERDA AND TEPEDINO POINTED OUT THAT THE SUPREME COURT REGULARLY RECEIVES REQUESTS FOR REVIEWS OF MILITARY TRIBUNALS' CONVICTIONS OF SUBVERSIVES. IN MANY CASES THE COURT HAS CONFIRMED SENTENCES, WHILE IN

OTHERS THE COURT HAS JUDGED THAT THERE WERE ERRORS IN THE TRIAL PROCESS OR EXCESSIVELY HARSH SENTENCES WERE IMPOSED IN COMPARISON TO THE CRIME. IN SUCH CASES, THE HIGH COURTS HAS ORDERED RETRIALS IN CIVIL COURTS OR RELEASE OF THE PRISONERS. IN EVERY CASE THE EXECUTIVE HAS COMPLIED WITH SUPREME COURT INSTRUCTIONS.

11. POLICE BRUTALITY AND TORTURE: WITH RESPECT TO PROTECTION OF PRISONERS AGAINST ABUSE FROM POLICE OR PENITENTIARY GUARDS, TEPEDINO STATED THAT PRISONERS MAY MAKE DENUNCIATIONS TO POLICE OFFICIALS, PENITENTIARY OFFICIALS AND THE COURTS, AND HE POINTED OUT THAT VIRTUALLY EVERY WEEK A DENUNCIATION IS MADE SOMEWHERE IN ARGENTINA. THE AUTHORITIES AND COURTS CONDUCT INVESTIGATIONS AND EITHER ABSOLVE OR PUNISH THE POLICE OR GUARDS INVOLVED IN THE ALLEGED ABUSE OR TORTURE. SHLAUDENMAN

how many have been punished?